

BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

LINDA LEE,

Appellant,

v.

COMMUNITY COLLEGES OF SPOKANE,

Respondent.

)
) Case No. RIF-03-0005
)

) FINDINGS OF FACT, CONCLUSIONS OF
) LAW AND ORDER OF BOARD
)

I. INTRODUCTION

1.1 **Hearing.** This matter came on for hearing before the Personnel Appeals Board, GERALD L. MORGEN, Vice Chair, and BUSSE NUTLEY, Member. The hearing was held at the Spokane Community College, Administration Building, Board Conference Room, Spokane, Washington, on March 30, 2004.

1.2 **Appearances.** Appellant Linda Lee was present and was represented by Christopher Coker, Attorney at Law, of Parr, Younglove, Lyman & Coker, P.L.L.C. Donna J. Stambaugh, Assistant Attorney General, represented Respondent Community Colleges of Spokane.

1.3 **Nature of Appeal.** This is an appeal from a reduction-in-force (RIF) action based on a good faith reorganization for efficiency purposes.

II. FINDINGS OF FACT

2.1 Appellant is a permanent employee for Respondent Community Colleges of Spokane. Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated

1 thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal with the Personnel Appeals
2 Board on March 14, 2003.

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4 2.2 By letter dated January 8, 2003, Gary Livingston, Chancellor/Chief Executive Officer,
5 notified Appellant that her position as an Information Technology Applications Specialist II was
6 reduced from a 40-hour work week to a 20-hour work week effective February 17, 2003. Mr.
7 Livingston cited good faith reorganization as the reason for the reduction in force.

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9 2.3 Appellant became employed as an Information Technology Applications Specialist (ITAS)
10 II in the Marketing and Public Relations Division, Publications and Graphics Department, in
11 August 1995. Appellant was the webmaster for the District Office.

12
13 2.4 Anne Tucker, Public Information Officer, was responsible for overseeing the Publications
14 and Graphics Department. Ms. Tucker also had oversight responsibility for the college's
15 centralized inquiry response and data collection, also referred to as the "inquiry module." This
16 function entailed responding to inquiries from the public received via the internet or by phone and
17 was staffed by a part-time office assistant. The college received approximately 1000 inquiries per
18 month and the data collected was used to provide intensive marketing to potential students.

19
20 2.5 In late 2002, Ms. Tucker learned that the inquiry module activities were not going to be
21 funded in the 2002-2003 budget. Previously, the inquiry model was funded by a reserve account;
22 however, that account had been depleted. Ms. Tucker subsequently met with various managers in
23 her department to discuss the funding situation, assess priorities and determine what functions
24 should continue to be provided and what functions could be reduced or eliminated. The feedback
25 Ms. Tucker received was that inquiry module was an important marketing tool and was considered

1 a priority. However, full-scale website management was not a priority, and a reduction of the work
2 in that area would have little negative impact on the college's departments.

3
4 2.6 Based on this information, Ms. Tucker developed a reorganization plan. In a letter dated
5 January 7, 2003, Ms. Tucker recommended to Dr. Gary A. Livingston, Chancellor and the
6 appointing authority for the college, that he approve a reorganization plan to 1) layoff a part-time
7 employee in School and College Relations, 2) reduce Appellant's full-time ITAS II position to half-
8 time, and 3) hire a full-time Office Assistant II to perform the inquiry module duties. Ms. Tucker's
9 goal was to complete the reorganization by February 15, 2003.

10
11 2.7 On January 8, 2003, Appellant was advised that her position as an ITAS II was being
12 reduced in work hours due to good faith reorganization of the District Marketing and Publications
13 Division. Kay Bryant, Manager of Classified Employment Services, did a review of Appellant's
14 layoff options in lieu of reducing her work schedule.

15
16 2.8 Ms. Bryant determined that Appellant had seniority over an employee at the Spokane Falls
17 Community College in an ITAS II position. Ms. Bryant informed Appellant that she could
18 complete a supplemental examination if she was interested in considering the position as a layoff.

19
20 2.9 Ms. Bryant also determined that Appellant had an option to 1) a Program Coordinator
21 position in the Student Services Program at Spokane Community College if she met the specialty
22 requirements of the position, 2) accept an Office Assistant III position, or 3) continue in her
23 position at half-time.

1 2.10 Appellant requested to take the supplemental examination for the ITAS II position at
2 Spokane Falls Community College. Subsequently, four members from the human resources
3 department rated Appellant's exam and concluded that Appellant did not possess the knowledge,
4 experience and skills to perform the essential elements of the position. In a letter dated January 23,
5 2003, Ms. Bryant informed Appellant that based on the results of her exam, the ITAS II position
6 was not a viable layoff option. Ms. Bryant also informed Appellant, based on her review of
7 Appellant's qualifications, she had determined that Appellant did not meet the essential elements of
8 the Program Coordinator position located at Spokane Community College.

9
10 2.11 On January 24, 2003, Appellant elected to remain in the half-time ITAS II position,
11 effective February 17, 2003.

12 13 **III. ARGUMENTS OF THE PARTIES**

14 3.1 Respondent argues that Appellant's RIF was done in good faith and that the decision to
15 reduce Appellant's position to half-time was within the discretion of the department. Respondent
16 asserts that based on feedback from college staff, Ms. Tucker appropriately determined that
17 maintaining the inquiry module was a priority, but that time spent working on the website could be
18 reduced with no negative impact to the college. Respondent also argues that Appellant was
19 provided with her layoff options and ultimately decided to stay in her half-time position. Therefore,
20 Respondent contends that because Appellant's reduction-in-force was the result of a good faith
21 reorganization, her appeal should be denied.

22
23 3.2 Appellant argues that her position was RIF'd because of a perception that her position did
24 not require full-time work and that no work analysis was conducted to support a change of her work
25 from full-time to part-time. Appellant also asserts that Respondent's reorganization plan did not
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1 result in a net loss of zero FTE's. Appellant asserts that her appeal should be granted and she
2 should be reinstated to full-time work.

3 4 IV. CONCLUSIONS OF LAW

5 4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter
6 herein.

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8 4.2 In an appeal of a reduction-in-force, Respondent has the burden of proof. WAC 358-30-
9 170. Respondent has the burden of proving by a preponderance of the credible evidence that it laid
10 the employee off for the reason stated in the RIF letter. O'Gorman v. Central Washington
11 University, PAB No. L93-018 (1995).

12
13 4.3 It is not our function to determine whether the reorganization proposal itself was right or
14 wrong, but only to determine if the reorganization was done in good faith. George v. Dep't of
15 Agriculture, PAB No L94-026 (1996).

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17 4.4 In Amundsen v. Dep't of Labor and Industries, PAB Case No. L85-1 (1985), aff'd (Thurston
18 Co. Super. Ct. No. 85-2-02185-9 (1987), the appointing authority determined, upon the
19 recommendation of an assistant, that to accomplish the revised goals of his administration, a
20 position could be better used if it was reallocated to another class. It is not the Board's function to
21 probe the mental processes by which the decision was reached, nor to substitute its judgment for
22 that of the agency when there is a showing of reasonable basis for such decision.

23
24 4.5 In Talbott and Hobson v. Dep't of Social and Health Services, PAB Case Nos. L81-2 &
25 L81-3 (Murphy, Hrgs, Exam.)(1981), the hearings examiner found that the reorganization was

1 effected after consideration of many factors affecting the efficiency of the overall unit, and not
2 designed to inconvenience the two appellants whose positions were transferred as a result of the
3 reorganization and consolidation.

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5 4.6 WAC 251-10-030(1) permits an appointing authority to layoff or reduce the number of
6 working hours or the work year of an employee because of a . . . good faith reorganization for
7 efficiency purposes. Respondent provided credible evidence that the reorganization of the
8 Marketing and Public Relations Division was reasonable under the circumstances and was carried
9 out in good faith. Respondent has met its burden of proof that Appellant's reduction in force was
10 the result of a good faith reorganization for efficiency purposes and that she received the
11 appropriate RIF options in compliance with the requirements of WAC 251-10-030.

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13 4.7 Respondent has met its burden of proof, and the appeal of Linda Lee should be denied.

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15 **V. ORDER**

16 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Linda Lee is denied.

17
18 DATED this _____ day of _____, 2004.

19 WASHINGTON STATE PERSONNEL APPEALS BOARD

20
21 _____
Gerald L. Morgen, Vice Chair

22
23 _____
Busse Nutley, Member

24
25
26
Personnel Appeals Board
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